

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**LEMKO CORPORATION,**

Plaintiff,

v.

**MICROSOFT CORPORATION and  
AFFIRMED NETWORKS, INC.,**

Defendants.

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Civil Action No. **3:22-CV-363-L**

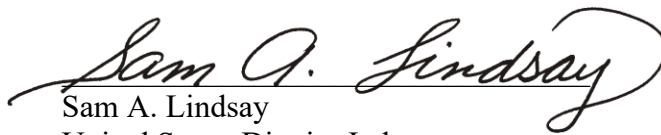
**ORDER**

On July 29, 2024, The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 77) was entered, recommending that the court grant Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint for Patent Infringement (“Motion”) (Doc. 63) pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state plausible claims for direct and indirect patent infringement. The Report nevertheless recommends that the court give Plaintiff one final opportunity to amend its pleadings to allege plausible claims for direct and indirect patent infringement. No objections to the Report were filed by Plaintiff, and the deadline for filing objections has expired.

Having considered Defendant’s Motion, the parties’ briefs, the pleadings, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants** Defendants’ Motion (Doc. 63) and **dismisses without prejudice** Plaintiff’s claims for direct and indirect patent infringement, but it will allow Plaintiff to amend its pleadings **one final time** to cure the deficiencies identified by the magistrate judge. Plaintiff must file an amended complaint by **September 6, 2024**. *Failure to do so will result in the dismissal with prejudice of Plaintiff’s patent*

*infringement claims under Rule 12(b)(6). Further, any amended complaint by Plaintiff **shall** be limited to the claims previously pleaded and subject to Defendants' Motion, as addressed in the Report. If Plaintiff wishes to amend to add claims not included in its prior pleadings, it must first comply with Federal Rule of Civil Procedure 15(a) and any applicable Local Civil Rules. Failure to do so will result in the noncompliant pleading or motion being sua sponte stricken or denied without further notice.*

**It is so ordered** this 13th day of August, 2024.

  
Sam A. Lindsay  
United States District Judge